



May 18, 1999

Ms. Pamela S. Bacon  
Public Information Administrator  
The University of Texas System  
601 Colorado Street  
Austin, Texas 78701-2982

OR99-1358

Dear Ms. Bacon:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126218.

The University of Texas System (the "system") received a request for IC2 fund raising proposals approved by the Board of Regents and George Kozmetsky's payroll and personnel files. You contend that the payroll and personnel files are excepted from disclosure pursuant to sections 552.101, 552.102, and 552.117 of the Government Code.<sup>1</sup> We assume that you have released the remaining requested information. We have considered the exceptions you claim and reviewed the submitted sample of documents.<sup>2</sup>

Section 552.117 of the Government Code excepts from required public disclosure the home addresses, telephone numbers, social security numbers, or information revealing whether a public employee has family members when the public employee requests that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold this information of a current or former employee or official

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<sup>1</sup>Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). You have not argued or labeled any information as excepted from disclosure by section 552.102. We have reviewed the submitted information and do not find any information that is private information excepted from public disclosure by section 552.102. *See* Open Records Decision Nos. 622 (1994), 455 (1987) (social security numbers are not excepted from disclosure under privacy doctrines).

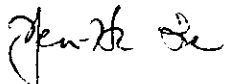
<sup>2</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

who requested that this information be kept confidential under section 552.024. *See* Open Records Decision Nos. 622 (1994), 455 (1987). You may not, however, withhold the information of a current or former employee who made the request for confidentiality under section 552.024 after this request for information was made. Whether a particular piece of information is public must be determined at the time the request for it is made. Open Records Decision No. 530 at 5 (1989). Therefore, if the employee has elected to not allow public access to this information in accordance with the procedures of section 552.024 of the Government Code, we believe that the system must withhold this information from required public disclosure pursuant to section 552.117. Here, the employee has requested that his home address and home telephone number be kept confidential. Accordingly, only his home address and home telephone number are confidential under section 552.117. The system may not withhold his social security number under section 552.117.

However, the social security number may be excepted from disclosure by section 552.101 of the Government Code. Section 552.101 excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Federal law may prohibit disclosure of the social security number included in this request for records. A social security number is excepted from required public disclosure under section 552.101 of the act in conjunction with 1990 amendments to the federal Social Security Act, § 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if it was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. See* Open Records Decision No. 622 (1994). Based on the information you have provided, we are unable to determine whether the social security number at issue is confidential under this federal statute. We note, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing any social security number information, the system should ensure that the information is not confidential under this federal statute.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref.: ID# 126218

Encl.: Submitted documents

cc: Mr. Stephen Lisson  
INITIATE!!  
P.O. Box 2013  
Austin, Texas 78768  
(w/o enclosures)